

## CHAPTER 72 USE OF MARKETING LOGO

[Prior to 7/19/95, see 261—Ch 55]

### **261—72.1(15) Purpose and limitation.**

**72.1(1) Purpose.** The purpose of the marketing logo program is to aid in the promotion and marketing of Iowa products and services. The IDED board has approved the following logo to market and promote Iowa products and services: A Taste of Iowa. A person shall not use this mark or advertise it or attach it to any promotional literature, manufactured article, or agricultural product without the approval of the department. The department will consult, as appropriate, with the advisory committee concerning program design, promotion and administration.

**72.1(2) Limitation.** By authorizing eligible applicants to use the marketing logo, the department, the IDED board and the state do not provide any guarantee or warranty regarding the product or service or its quality. Businesses that use the marketing logo expressly agree not to represent that the logo suggests any department, IDED board or state approval of the product or service.

### **261—72.2(15) Definitions.**

*“Advertisement”* means any written, printed, verbal or graphic representation, or combination thereof, of any product with the purpose of influencing consumer opinion as to the characteristics, qualities or image of the commodity, food, feed, or fiber except labeling information as required by any government.

*“Advisory committee”* means the advisory committee appointed by the director to advise the department on how to promote and administer the A Taste of Iowa program.

*“A Taste of Iowa program”* or *“program”* means the promotional certification program authorized by these rules.

*“Director”* means the director of IDED.

*“Label”* means any written, printed, or graphic design that is placed on, or in near proximity to, any product whether in the natural or processed state or any combination thereof.

*“License”* means the written agreement through which IDED grants authorization to use the A Taste of Iowa logo.

*“Person”* means any natural person, corporation, partnership, association, or society.

*“Processed”* means any significant change in the form or identity of a raw product through, by way of example but not limited to, breaking, milling, shredding, condensing, cutting or tanning.

*“Produced in Iowa”* means:

1. For processed products, 50 percent or more of the product by weight or wholesale value was grown, raised or processed in Iowa.
2. For raw products, 100 percent of the product by weight, if sold by weight, by measure, if sold by measure, by number, if sold by count, was grown or raised in Iowa.

*“Product”* means any agricultural commodity, processed food, feed, fiber, or combinations thereof.

*“Promotion”* or *“promotional”* means any enticements, bonuses, discounts, premiums, giveaways, or similar encouragements that influence consumers’ opinions regarding a product.

**261—72.3(15) Guidelines.** Before an applicant will be granted authorization to use the marketing logo, an applicant shall comply with the following guidelines to demonstrate to the department that the product or service is manufactured, processed or originates in Iowa:

**72.3(1) *Eligible applicants.*** Eligible applicants are those:

*a.* Companies whose products are manufactured, processed or originate within the state of Iowa; or

*b.* Service-oriented firms including, but not limited to, financial, wholesalers and distribution centers whose products qualify under paragraph “a” above.

**72.3(2) *Criteria.*** An applicant shall meet the following criteria to be eligible to use the marketing logo in conjunction with a designated product or service:

*a.* The company shall have a credible reputation as confirmed by the local chamber of commerce, the better business bureau, the regional coordinating council, or a local economic development group. The department may also contact the consumer protection, farm or other appropriate division of the Iowa attorney general’s office or other state or federal agencies for information about the company.

*b.* The applicant’s product or service shall be manufactured or processed or shall originate in Iowa.

*c.* Any applicant that has participated in the A Taste of Iowa program and whose license to use the logo was terminated by the department is ineligible to reapply for program participation for a period of five years from the date of termination.

*d.* The company shall furnish a signed and completed application on forms provided by the department. The application shall include, but not be limited to, the following:

- (1) A description of the product(s) or service(s) for which the logo is sought.
- (2) Information confirming that the applicant’s product or service is manufactured or processed or originates in Iowa.
- (3) A description of the distribution area for the product or service.
- (4) Warranty or guarantee statements covering the product or service, if available.
- (5) Copies of promotional literature or brochures, if available.
- (6) A statement describing how the logo is to be used and on what product(s) or service(s).
- (7) Any other information about the product or service as requested by the department.

#### **261—72.4(15) Review and approval of applications.**

**72.4(1)** Applications shall be reviewed by department staff to determine if the applicant has satisfactorily demonstrated that the product or service meets the eligibility requirements of these rules. Applicants shall, upon request and at no charge to the department, agree to provide product samples.

**72.4(2)** Following review of the application, department staff shall submit recommendations for approval or denial to the director. The director shall make the final decision to approve or deny an application.

#### **261—72.5(15) Licensing agreement; use of logo.**

**72.5(1) *Licensing agreement.*** An approved applicant shall enter into a licensing agreement with the department as a condition of using the A Taste of Iowa logo. The terms of the agreement shall include, but not be limited to, duration of the license and any renewal options; conditions of logo usage; identification of product(s) or service(s) authorized to use the logo; an agreement to hold harmless and indemnify the department, the state, its officers or employees; an agreement to notify the department of any litigation, product recall, or investigation by a state or federal agency regarding the product or service utilizing the logo; and an acknowledgment that the state is not providing a guarantee or warranty concerning the safety, fitness, merchantability, or use of the applicant’s product or service.

**72.5(2) Use of logo.** Upon notification of approval and execution of a licensing agreement with the department, the applicant may use the logo on its product, package or promotional materials until notified by the department to discontinue its use. The department shall furnish the approved applicant with a copy of the “official reproduction sheet” of camera-ready logo copy from which the company can reproduce the logo. The licensee shall follow the graphic standards as provided to the licensee and incorporated in the license agreement.

**261—72.6(15) Denial or suspension of use of logo.**

**72.6(1) Denial.** The department may deny permission to use the label or trademark if the department reasonably believes that the applicant’s planned use (or for licensees, if the planned or actual use) would adversely affect the use of the label or trademark as a marketing tool for Iowa products or its use would be inconsistent with the marketing objectives of the department.

**72.6(2) Suspension.** The department may suspend permission to use the label or trademark for the same reasons stated in subrule 72.6(1), prior to an evidentiary hearing which shall be held within a reasonable period of time following the suspension.

**261—72.7(15) Request for hearing.**

**72.7(1) Filing deadline.** An applicant who is denied permission to use the marketing logo or a licensee that has received notice of suspension of permission to use the marketing logo may request a hearing concerning the denial or suspension. A request for a hearing shall be filed with the department within 20 days of receipt of the denial or suspension notice. Requests for hearing shall be submitted in writing by personal service or by certified mail, return receipt requested, to: A Taste of Iowa, International Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

**72.7(2) Contents of request for hearing.** A request for a hearing shall contain the following information:

- a. The date of filing of the request;
- b. The name, address and telephone number of the party requesting the hearing and, if represented by counsel, the name, address and telephone number of the petitioner’s attorney;
- c. A clear statement of the facts, including the reasons the requesting party believes the denial or suspension of permission to use the marketing logo should be reconsidered; and
- d. The signature of the requesting party.

**72.7(3) Informal settlement.** Individuals are encouraged to meet informally with department representatives to resolve issues related to a denied application or suspension of authorization to use the logo. If settlement is reached, it shall be in writing and is binding on the agency and the individual.

**72.7(4) Hearing procedures.** If an informal resolution is not reached, the department will follow the procedures outlined in the uniform rules on agency procedure governing contested cases located in the first volume of the Iowa Administrative Code.

**261—72.8(15) Requests for information.** Information about the logo marketing program may be obtained by contacting: A Taste of Iowa, International Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4743.

These rules are intended to implement Iowa Code section 15.108(2)“b.”

[Filed before 7/1/52]

[Filed 11/4/77, Notice 9/21/77—published 11/30/77, effective 1/4/78]

[Filed emergency 12/19/86—published 1/14/87, effective 12/19/86]

[Filed emergency 10/21/88—published 11/16/88, effective 10/21/88]

[Filed 9/25/89, Notice 7/12/89—published 10/18/89, effective 11/22/89]

[Filed emergency 9/29/89—published 10/18/89, effective 9/29/89]

[Filed 6/26/95, Notice 5/10/95—published 7/19/95, effective 8/23/95]

[Filed emergency 3/19/99—published 4/7/99, effective 3/19/99]

CHAPTERS 73 and 74

Reserved